

the receiver identified by Plaintiff (CBRE).¹ However, Borrower believes that some provisions of the proposed Order submitted by Plaintiff are overbroad, unduly burdensome, ambiguous or contrary to law.

By way of example, and not limitation, paragraph 1(l) of Plaintiff's proposed Order would require Borrower to turn over all of its funds to the receiver, irrespective of whether those funds were generated from the Property, paragraph 6(h), if read literally, would require that Borrower turn over attorney-client communications to the receiver, paragraph 11 does not provide for the Receiver to have responsibility for preparing and filing Philadelphia use and occupancy tax returns (which taxes are the obligations of the tenants in the first instance), paragraph 12(d) would prohibit Borrower from terminating contracts of service providers even if they are not retained by the receiver, and paragraph 13 does not require the Receiver to pay over to the City of Philadelphia any Philadelphia use and occupancy tax payments remitted by tenants to the Receiver.

Subject to receiving the required Independent Director consent as referenced above, Borrower is hopeful that it will be able to reach agreement with Plaintiff on a form of Order appointing the receiver. Accordingly, Borrower requests that the Court defer ruling on Plaintiff's motion for three (3) weeks to allow the parties time to attempt to negotiate a stipulated form of Order and the orderly transition of the Property. In the event that the parties do not reach agreement on the form of Order, Borrower will submit an alternative form of Order to the Court, highlighting the specific areas of disagreement.

¹ As required by Plaintiff's predecessor in interest, as a condition to making the loan at issue in this matter, there are two independent directors of Borrower (the "Independent Directors") whose consent is required before Borrower can consent to the appointment of a receiver. Borrower has reached out to the Independent Directors for consent and is awaiting their decision. Borrower does not believe that they will have an objection.

Respectfully submitted,

COZEN O'CONNOR

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Dated: February 17, 2023

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of February, 2023, I served a true and correct copy of the foregoing Response of Defendant to Plaintiff's Motion for Appointment of a Receiver upon the following via email:

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